UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,107	05/24/2001	Filips Van Liere	NL 000278	1459

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EXAMINER
WANG, JIN CHENG

ART UNIT	PAPER NUMBER
2672	18

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-22*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because:
1) Applicant argues in essence regarding the interpretation of "a user interface construct" as recited in the claims of the present application. Applicant argues in Remarks, page 11, that a "user interface construct" is a menu, toolbar, or control panel displayed on the screen which is activated by a user interface, e.g., by pointing the cursor of the mouse to a selection on the menu, toolbar or control panel. In response, the Examiner retains the 112 rejection. The reasons are given as follows (Items A-F).

A) First of all, both the specification and the claim has NOT defined the term "user interface construct." The specification merely describes on page 3 "the present invention does not need screen area for extraneous user-interface constructs" without giving definition to the term of "extraneous user interface constructs."

B) Second, according to the U.S. Patent No. 5, 247,614, "user interface constructs" includes a wide range of graphical interfaces such as WINDOWS, menus, control panels, SELECTION FIELDS, ACTION BARS, SCROLLABLE PANEL AREAS, UNDISPLAYED SCROLLABLE ITEMS. The Claim 1 and similar independent claims recite "without activation of user interface constructs," which in combination with the examples of the "user interface constructs" in the above-mentioned U.S. patent, implies that "without activation of user interface constructs" such as WINDOWS. However, Applicant has clearly used the windows for displaying the images in the image manipulation system (See also Figure 2).

C) Third, Figure 2 of the present application, "user interface constructs" such as selection fields, action bars, control panels, menus, scrollable panel areas, undisplayed scrollable items, WINDOWS, menus, control panels have been extentively described. However, the independent Claim 1 and similar claims recites "without activation of user interface constructs." However, it is clear from the Figure 2 that a plurality of user interface constructs have been ACTIVATED by the image manipulation system of the present application. While Applicant's specification describes the activation of the user interface constructs (although applicant's specification describes without activation of EXTRANEOUS user interface constructs meaning without activation of TOO MANY user interface constructs), the independent Claim 1 and similar claims instead recites "without activation of user interface constructs" which is in contrary to what has been described in the specification. Therefore, the Claim 1 and similar claims are NOT enabled by the specification.

D) In Remarks, Applicant tried to limit the wide range of elements of "user interface constructs" to some specific items such as menus, toolbars and control panels. However, such interpretation of the "user interface constructs" IS INCORRECT. As pointed out previously, "user interface constructs" includes a WIDE RANGE of elements such as graphical user interface constructs and should NOT be limited to the three elements such as menus, toolbars and control panels.

E) Applicant further argues that the phrase "user interface constructs" should be interpreted in light of the specification. However, the specfication does not give a definition of the term "user interface constructs" as claimed in the claim invention.

F) Because of the inconsistency between the specification and the claim as regards to the activation of the user interface constructs, the claim limitation "without activation of user interface constructs" renders the claim 1 indefinite. The claim limitation carries no patentable weight.

2) With regards to the art rejection, Echerer further teaches enabling the generation of the measurement graphics without activation of user interface constructs, i.e., without activation of buttons on the keyboard OR ACTION BARS, OR CONTROL PANELS since Echerer teaches using a mouse only without activating buttons on the keyboard, OR ACTION BARS, OR CONTROL PANELS (See e.g., column 12, lines 20-30; column 13, lines 25-50; column 15, lines 15-35).

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